UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

KATHERINE SZARMACH,	:	
Plaintiff,	:	
	:	
-vs-	:	Civil No. 3:01cv699 (PCD)
	:	
SIKORSKY AIRCRAFT,	:	
Defendant.	:	

RULING ON DEFENDANT'S MOTION TO DISMISS
AND MOTION FOR A MORE DEFINITE STATEMENT

Defendant, Sikorsky Aircraft, moves to dismiss Count III and plaintiff's claim that, as a consequence of defendant's conduct, she was laid off. Defendant also moves for a more definite statement. The motion to dismiss is granted in part. The motion for a more definite statement is denied.

I. BACKGROUND

Plaintiff alleges the following. She is fifty-five. For fifteen years, she worked as a Senior Systems Analysis Facilitator for defendant. Plaintiff's immediate supervisor, Dave Mortensen, verbally threatened and humiliated plaintiff and warned her that she would "pay" for any complaints against him. Plaintiff reported the incident to defendant's Human Resources Department, adding that she believed that Mortensen was motivated by her gender and age. Defendant did not adequately investigate the complaint, nor did defendant document her complaint in her personnel file. Plaintiff later asked Human Resources about the failure to document the complaint, to which Human Resources responded that it did not need reports to understand the scope of a department's problems.

Human Resources dismissed her complaint, attributing her complaint to her oversensitive

nature. It informed plaintiff that she may be subject to transfer, although such was not her desire. Defendant then relieved plaintiff of all responsibility. When plaintiff asked what positions were available for her as transfer possibilities, she was told to "take what you . . . can get."

Defendant informed plaintiff that her transfer options did not make her eligible for a wage increase, notwithstanding her prior supervisory duties, because she had no college degree. Following plaintiff's transfer, she was replaced by a younger woman who also did not have a college degree and who was given the wage increase denied plaintiff.

Plaintiff was transferred to the Business Systems Department for which she was not adequately trained or prepared. Defendant was aware or should have been aware of this fact. Although plaintiff made several requests for training, defendant provided inadequate training for her new position. Plaintiff's supervisors criticized her for performing inadequately and gave her poor evaluations for her performance in the new position.

Defendant transferred plaintiff out of the company's employ, claiming she was better suited to a contract position outside the company and lacked the skills necessary for the position in the Business Department. As a result, plaintiff was released from employment for not having the skill required for the position to which she was transferred.

On April 6, 2000, plaintiff filed administrative charges with the Connecticut Commission on Human Rights and Opportunities ("CHRO"). The CHRO issued a release to sue letter on December 18, 2000. On January 25, 2001, the Equal Employment Opportunity Commission ("EEOC") issued its "Right to Sue Letter." Plaintiff filed the present complaint on April 23, 2001.

II. RULING ON MOTION TO DISMISS

Plaintiff alleges violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 *et seq*. ("Title VII") ; the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634 (1994 & Supp. IV 1998) ("ADEA"); and CONN. GEN. STAT. § 46a-60(a)(1). Defendant moves, pursuant to FED. R. CIV. P. 12(b)(1), to dismiss the § 46a-60(a)(1) claim and claims of violations in laying plaintiff off for lack of subject matter jurisdiction.

A. Motion to Dismiss Standard

A motion to dismiss is properly granted when "it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations." *In re Scholastic Corp. Sec. Litig.*, 252 F.3d 63, 69 (2d Cir. 2001) (quoting *Hishon v. King & Spalding*, 467 U.S. 69, 73, 104 S. Ct. 2229, 81 L. Ed. 2d 59 (1984)). A motion to dismiss must be decided on the facts as alleged in the complaint. *Merritt v. Shuttle, Inc.*, 245 F.3d 182, 186 (2d Cir. 2001). All facts in the complaint are assumed to be true and are considered in the light most favorable to the non-movant. *Manning v. Utilities Mut. Ins. Co., Inc.*, 254 F.3d 387, 390 n.1 (2d Cir. 2001).

B. CONN. GEN. STAT. § 46a-60(a)(1) Claim

Count III alleges that plaintiff's transfer and discharge was motivated by discriminatory animus on account of her gender and age. Defendant argues that because plaintiff failed to file her complaint within ninety days of receipt of the release to sue letter from the CHRO as per CONN. GEN. STAT. § 46a-101(e), her claim should be dismissed for lack of subject matter jurisdiction. Plaintiff responds that "as supplements to her federal claim filed in federal court," the state claim may not be dismissed.

General Statutes § 46a-101(e) provides that "[a]ny action brought by the complainant in accordance with section 46a-100 shall be brought within ninety days of the receipt of the release from

the commission." On December 18, 2000, plaintiff received the CHRO release to sue letter. She filed this complaint on April 23, 2001, one hundred and twenty-six days after December 18, 2000. Plaintiff's state law claim is therefore untimely and dismissed.[1]

C. Claims That Plaintiff Was Laid Off

Plaintiff alleges that as a result of her transfer to a position for which she was untrained, she was laid off. The defendant responds that this "claim"[2] was not contained in either the CHRO or EEOC complaint and must therefore be dismissed for failure to exhaust administrative remedies. The issue is not whether the specific fact alleged was before the EEOC, but whether the claim of being laid off is "reasonably related" to the claim made to the EEOC.

This court has jurisdiction "over a claim 'reasonably related' to a charge filed with the EEOC, including incidents occurring after the filing of the EEOC claim." *Stewart v. INS*, 762 F.2d 193, 198 (2d Cir. 1985) (1984 suspension based on gun incident and subsequent indictment not "reasonably related" to 1980 claims of discrimination as to promotions); *see also Butts v. New York Dep't of Housing, Pres. & Dev.*, 990 F.2d 1397, 1401 (2d Cir.1993), superseded by statute on other grounds

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1 Plaintiff appears to argue that by dismissing the state law claim, this court allows state law to control the right to bring a federal claim in the EEOC proceeding. Plaintiff in her memorandum states that the state and federal filings are "duplicitous" and defendant argues that the CHRO complaint was incorporated into the EEOC complaint. As such, all federal claims in the CHRO complaint are before the EEOC, and the dismissal of the state claim in no way affects the federal claims or proceedings. Plaintiff had the opportunity to file the present complaint in such time as to preserve both her state and federal claim but allowed the state claim to lapse.

2 Defendant characterizes plaintiff's allegation that she was laid off as a result of its conduct as an independent claim and moves to dismiss the claim. The allegation is repeated in each of the three counts. Defendant treats the allegation as a separate count rather than an individual allegation, the inclusion of which would seem properly contested by a motion to strike rather than a motion to dismiss. Because the allegation is properly included as a matter of law, the ultimate characterization is of little moment.

as recognized in *Hawkins v. 1115 Legal Serv. Care*, 163 F.3d 684 (2d Cir. 1998). A claim is reasonably related where "a plaintiff alleges further incidents of discrimination carried out in precisely the same manner alleged in the EEOC charge." *Butts*, 990 F.2d at 1403. As alluded to in *Butts*, such an incident, although occurring after the EEOC concludes its investigation, is subject to inquiry into the method of discrimination manifested by defendant. *Id.* In the present case, transfer to a position for which one has inadequate training and the subsequent phasing out of that position are "reasonably related" to the chain of events of plaintiff's claim of gender and age discrimination. *See Walker v. Columbia Univ.*, No. 93 CIV. 33811997, WL 749391, at *2-*3 (S.D.N.Y. Dec. 4, 1997) (substandard salary at time of termination reasonably related to discrimination in refusing to promote). Therefore, the motion to dismiss plaintiff's claims that she was laid off is denied.

III. RULING ON MOTION FOR MORE DEFINITE STATEMENT

Defendant moves for a more definite statement pursuant to FED. R. CIV. P. 12 (e), asserting that the complaint is too vague or ambiguous to form a responsive pleading.

Defendant asserts that the allegations in the complaint are so vague as to preclude assessment of potential defenses and jurisdictional issues. The complaint does not allege facts accompanied by dates.

A motion for more definite statement may be granted "[i]f a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading . . . ." FED. R. CIV. P. 12(e). The granting of a motion for more definite statement is within the discretion of the district court. 5A CHARLES A. WRIGHT & ARTHUR R. MILLER, FEDERAL PRACTICE AND PROCEDURE § 1377 (2d ed. 1990). Although plaintiff's complaint is not a model of

clarity, it is clear that plaintiff claims that her supervisors engaged in a pattern of conduct that created a hostile work environment, discriminated against her on the basis of her age and gender and ultimately caused her discharge. The complaint sets forth supervisor names, departments in Sikorsky and specific events. Any further detail necessary to expand on plaintiff's claim is appropriately unearthed in the discovery process. It cannot be said that defendant cannot be expected to frame a responsive pleading.

IV. CONCLUSION

Defendant's motion to dismiss (No. 8) is **granted in part** and **denied in part**. Defendant's motion to dismiss Count III is **granted**. Defendant's motion to dismiss the remaining counts in which plaintiff alleges she was laid off is **denied**. Defendant's motion for more definite statement (No. 8) is **denied.**

SO ORDERED.

Dated at New Haven, Connecticut, September __, 2001.

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Peter C. Dorsey
Senior United States District Judge